



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 4689485

Date: JAN. 7, 2020

Motion on Administrative Appeals Office Decision

PETITION: Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, an international relations scholar and consultant, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Texas Service Center approved the Form I-140, Immigrant Petition for Alien Worker. Subsequently, however, the Director of the Texas Service Center issued a notice of intent to revoke and later revoked the approval of the immigrant petition, finding that U.S. Citizenship and Immigration Services (USCIS) had approved the petition in error.¹ Specifically, the Director determined that the Petitioner had not satisfied any of the ten initial evidentiary criteria, of which he must meet at least three.

The Petitioner appealed the matter to us, and we dismissed the appeal.² The matter is now before us on a motion to reopen and a motion to reconsider. With the motions, the Petitioner submits additional documentation and a brief asserting that he fulfills at least three of the ten criteria and qualifies as an individual of extraordinary ability.

Upon review, we will grant the motion to reopen and sustain the appeal.³

I. LAW

A motion to reconsider is based on an incorrect application of law or policy, and a motion to reopen is based on documentary evidence of new facts. The requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3), and the requirements of a motion to reopen are located at 8 C.F.R.

¹ The Secretary of Homeland Security “may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition . . .” Section 205 of the Act, 8 U.S.C. § 1155. By regulation this revocation authority is delegated to any USCIS officer who is authorized to approve an immigrant visa petition. 8 C.F.R. § 205.2(a).

² *See Matter of D-A-*, ID# 1518916 (AAO Jan. 25, 2019).

³ As we are granting the Petitioner’s motion to reopen, the motion to reconsider is moot.

§ 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

Furthermore, section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

A. Evidentiary Criteria

As the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). We previously determined that the Petitioner met the requirements of only two criteria: scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi) and leading role under 8 C.F.R. § 204.5(h)(3)(viii).⁴

With respect to the contributions criterion at 8 C.F.R. § 204.5(h)(3)(v), our appellate decision concluded that the Petitioner's letters of support did not provide sufficiently detailed information to demonstrate the nature of specific contributions he made to the field that have been considered to be of major significance. With his motion to reopen, the Petitioner presents new letters and other supporting evidence offering more detailed information about his [redacted] actions and their majorly significant implications towards furthering stability in the [redacted]. For example, the record shows that his specific work was central to diffusing [redacted] tensions after [redacted] seized a [redacted] vessel [redacted] attempting to breach the blockade of [redacted] and in the aftermath of a cross-border shooting along the [redacted] border. This evidence is sufficient to demonstrate that the Petitioner has made original contributions of major significance in his field. Accordingly, as the record now demonstrates that he has satisfied at least three of the ten regulatory criteria, we grant the motion to reopen and consider the record as a whole in the context of a final merits determination.

B. Final Merits Determination

As the record satisfies at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his accomplishments are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. We evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of the small percentage who have risen to the very top of the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. In the present matter, the Petitioner has shown his eligibility for this classification.

The record indicates that the Petitioner has performed in leading roles as [redacted] and [redacted] at the [redacted] Embassy in Washington, D.C. In addition, he served in other senior [redacted] positions including [redacted] at the [redacted] Embassy in [redacted] Japan and Head of the [redacted] division at the [redacted] Ministry of Foreign Affairs. More recently, the Petitioner has worked as a Scholar-in-Residence at [redacted] University, a Visiting Fellow at the [redacted] and Senior Fellow at the [redacted]. These senior [redacted] roles and scholarly appointments help set the Petitioner apart through a "career of

⁴ For instance, the Petitioner authored reports for the [redacted] and performed in a leading role as [redacted] [redacted] and [redacted] at the [redacted] in Washington, D.C.

acclaimed work in the field” as contemplated by Congress. *See* H. Rep. No. 101-723, at 59 (Sept. 19, 1990).

While at the [redacted], the Petitioner has authored multiple articles and reports relating to [redacted] policy towards [redacted]; [redacted] among [redacted] and [redacted] reestablishment of [redacted] relations; and development of [redacted] energy reserves. In addition, the record includes evidence that the Petitioner has been quoted as an expert in [redacted] policy and [redacted] relations by major media such as CNN and the *New York Times*. Also, he has appeared on CNN and Al Jazeera networks, and contributed articles and editorials to the *Washington Post* and the *New York Times*. We find that the Petitioner’s publication record and involvement with major news outlets is consistent with sustained national or international acclaim in his field.

Furthermore, the Petitioner has presented letters of support offering detailed information regarding his [redacted] achievements and contributions to furthering stability in the [redacted]. For example, [redacted] in the [redacted] Prime Minister’s Office, stated that the Petitioner’s contributions of major significance included “helping the [redacted] strengthen its sanctions regime against [redacted],” “navigating the diplomatic crisis between [redacted] following the [redacted] incident,” and “containing tensions between [redacted] after a cross-border shooting.” The record contains additional letters from former [redacted] ambassadors, [redacted] former ambassador to both the [redacted] a former U.S. Senator, and former [redacted] policy advisers. While not all of them include the level of detail presented on motion, these letters from high-level government officials and diplomats attest to the major significance of the Petitioner’s work, his acclaimed accomplishments in the field, and standing as a top [redacted] expert.

In summary, the Petitioner has demonstrated his extraordinary ability as an international relations scholar and consultant. The totality of the evidence establishes that he possesses a level of expertise that is consistent with a finding that he is one of a small percentage at the very top of the field of endeavor and that he has documented sustained acclaim. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-20.

III. CONCLUSION

With his motion to reopen, the Petitioner has submitted evidence establishing that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). The record also demonstrates sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Lastly, the Petitioner has shown that he intends to continue working in his area of expertise and that he will substantially benefit prospectively the United States. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The motion to reopen is granted and the appeal is sustained.